

1 Don Howarth, State Bar No. 53783
2 Suzelle M. Smith, State Bar No. 113992
3 HOWARTH & SMITH
4 523 West Sixth Street, Suite 728
5 Los Angeles, California 90014
6 Telephone: (213) 955-9400
7 Facsimile: (213) 622-0791
8 Email: dhowarth@howarth-smith.com

9 Attorneys for Defendant
10 THE PROCTER & GAMBLE COMPANY

11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA

13 ROBERT PAYNE and STEVE
14 BARTILUCCI,

15 Plaintiffs,

16 vs.

17 MENU FOODS, INC., a New Jersey
18 corporation, PETCO ANIMAL SUPPLIES,
19 INC.; a Delaware corporation, SAFEWAY,
20 INC.; a Delaware corporation, THE
21 PROCTER & GAMBLE COMPANY, a Ohio
22 corporation, and DOES 1 through 50,

23 Defendants.

) **CASE NO. 07cv0705 JAH(GAB)**

) Honorable John A. Houston

) **JOINT MOTION FOR EXTENSION**
) **OF TIME TO FILE RESPONSIVE**
) **PLEADING**

24 ///

25 ///

26 ///

27 ///

28 ///

1 Pursuant to CivLR 12.1 of the Local Rules of Practice for United States District
2 Court, Southern District of California, Defendant The Procter & Gamble Company
3 (“Defendant”) and Plaintiffs Robert Payne and Steve Bartilucci (“Plaintiffs”), hereby jointly
4 move for an order extending the time for Defendant to file its response to Plaintiffs’
5 Complaint. The parties jointly request that the deadline for filing Defendant’s First
6 Responsive pleading be extended from May 29, 2007 to June 11, 2007.

7 Good cause exists for granting an extension. Defendant filed a previous joint motion
8 to extend its time to respond until May 29, which the Court granted. At the time, Defendant
9 had not made an appearance in the case and did not have notice that Menu Foods, Inc. had
10 filed a motion to stay all proceedings. Since then, Defendant has conferred with Menu
11 Foods and on May 14, 2007, Defendant filed a joinder in Menu Foods’ Motion to Stay. The
12 hearing on the motion to stay is set for May 31, 2007 at 3:00pm. Since the Court’s ruling on
13 the motion to stay would govern all parties and proceedings in the case, Defendant seeks a
14 further extension of time to file its responsive pleading to a date after the May 31 hearing.
15 Menu Foods’ responsive pleading is due on June 11, and the parties hereto ask that
16 Defendant The Procter & Gamble Company’s responsive pleading be due on that same date.

17 Dated: May 18, 2007

HOWARTH & SMITH

18
19 s/Don Howarth
20 Don Howarth
21 Attorneys for Defendant
The Procter & Gamble Company

22 Dated: May 18, 2007

KRAUSE, KALFAYAN, BENINK
& SLAVENS, LLP

24 s/Eric J. Benink
25 Eric J. Benink
26 Attorneys for Plaintiffs
Robert Payne and Steve Bartilucci

CERTIFICATE OF SERVICE

I certify that on May 18, 2007, I caused the following document:

JOINT MOTION FOR EXTENSION OF TIME TO FILE RESPONSIVE PLEADING
to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-notice of the electronic filing to the following:

Susan Moriarty Hack at hack@higgslaw.com
Richard Mark Segal at richard.segal@pillsburylaw.com;
charles.sandlin@pillsburylaw.com

I further certify that I caused a copy of the foregoing document and the notice of electronic filing to be mailed by first class mail, postage prepaid, to the following non-ECF participants:

Eric J. Benink, Esq.
KRAUSE KALFAYAN BENINK
& SLAVENS, LLP
625 Broadway, Suite 635
San Diego, California 92101

Priya Jesani, Esq.
Edward B Ruff, III, Esq.
Michael P Turiello, Esq.
PRETZEL AND STOUFFER CHARTERED
One Wacker Drive
Suite 2500
Chicago, IL 60606

Dated: May 18, 2007

s/Don Howarth
Don Howarth